

BEFORE THE  
STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement of  
Revoked License of:

JOSHUA E. KING

Petitioner.

OAH No. 2014060729

**DECISION**

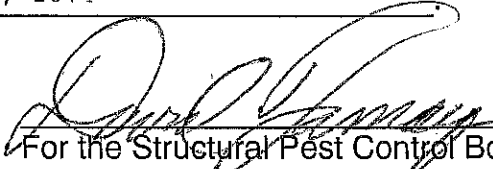
The Proposed Decision of Vallera J. Johnson, Administrative Law Judge, in San Diego, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c) (2) (c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. On page 1, paragraph number 2, "executive director" is stricken and replaced with "executive officer".
2. On page 2, paragraph number 4, insert "submitted" after "properly".
3. On page 7, 4<sup>th</sup> paragraph, "He has had not problem" is stricken and replaced with "He has had no problem".
4. On page 8, on the last line above ORDER, insert "be" after "would".

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Structural Pest Control Board, Department of Consumer Affairs, State of California.

The Decision shall become effective on September 21, 2014.

IT IS SO ORDERED August 22, 2014

  
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For the Structural Pest Control Board

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**DECISION**

On July 9, 2014, in San Diego, California, a quorum of the Structural Pest Control Board heard this matter. Administrative Law Judge Vallera J. Johnson, State of California, Office of Administrative Hearings, presided.

Carl W. Sonne, Deputy Attorney General, represented the people of the State of California.

Petitioner was present and represented himself.

The matter was submitted on July 9, 2014.

**FACTUAL FINDINGS**

1. On March 5, 1999, the Structural Pest Control Board Issued Field Representative License No. FR 30569 in Branch 1 to Joshua E. King.

2. On March 29, 2000, the Board's executive director filed Accusation Case No. 2000-22 against Petitioner, as an employee of Corporate Fumigation, Inc. because he was the supervisor of a crew that fumigated the wrong house. The hearing in this matter occurred without Petitioner.

Effective May 23, 2001, the Board revoked Petitioner's Field Representative License and ordered him to pay \$1,416.53, the cost of the Board's investigation.

3. In accordance with Government Code section 11522, a person whose license has been revoked may petition the Board for reinstatement after not less than one year has elapsed from the effective date of the decision.

In this case, a petition for reinstatement could be heard anytime after May 23, 2002.

4. On May 19, 2014, Petitioner filed the Petition for Reinstatement more than one year after the effective date of discipline of his license.

The Petition is properly before the Board and satisfies the requirements of Government Code section 11522. Among other things, Petitioner provided evidence of activities during the time that his license was in good standing, activities since the disciplinary action was taken, his rehabilitation efforts and his general reputation for truth and professional ability.

5. Regarding the facts and circumstances underlying the revocation of his license, Petitioner explained that, on May 30, 1999, there was a miscommunication that caused him to fumigate the wrong property. In a mobile home park, Petitioner's crewmember navigated while Petitioner drove. The crewmember told Petitioner to stop when they arrived. Petitioner asked the crewmember to look at the information on the paperwork. Petitioner found the key under the floor mat at the location provided by the crewmember. At that point, he had no reason to question whether he was in the right place. Petitioner entered the house and found that food had not been bagged. He tried to contact his office but was unable to do so. Petitioner explained that, working for a subcontractor fumigation company, he was on a tight schedule. As he was coming out of the trailer, the manager of the park drove up and asked Petitioner to let him know if they needed anything. An hour later, he learned that he had fumigated the wrong unit. Petitioner fumigated #116 instead of #216.

On the day of the mistake, while on duty, Petitioner had not been using drugs while on duty.

6. Petitioner took responsibility for his negligence. He has learned to be thorough, to double check paperwork, and not to make assumptions even under pressure.

7. Petitioner filed his petition because he hopes "to make good" with the Board. He wants the opportunity to take the test get a license in any branch.

8. Prior to and since discipline of his license, Petitioner sustained convictions.

- On September 10, 1998, in the Superior Court of California, County of Orange, Harbor Justice Center, in the case entitled *The People of the State of California v. Joshua Erle King, Sr., aka Josh Earl King, Susan May Whetsone, Susan May Whetstonelaws and Susan May Whetstone-Laws*, Case No. 98HF0874, on his plea of guilty, Petitioner was convicted of violating Health and Safety Code Section 11379, subdivision (a), Possession of a Controlled Substance, to wit: methamphetamine, a felony. When he entered his plea, Petitioner admitted that on August 25, 1998, in

Orange County, he knowingly possessed a useable amount of controlled substance, to wit: methamphetamine.

As a consequence of the conviction, the court deferred entry of judgment pursuant to Penal Code section 1000; upon completion of Penal Code section 1000 Program, the criminal charge would be dismissed. On April 8, 1999, Petitioner provided evidence of completion the Penal Code section 1000 Program; presumably this conviction was dismissed.

- On April 26, 2004, in the Superior Court of California, County of Orange, West Justice Center, in the case entitled *The People of the State of California v. Joshua Erle King, aka Josh Earl King, Joshua Erle King Sr., Joshua E. King, Alicia O'Reilly*, Case No. 04WF0353, on his plea of guilty, Petitioner was convicted of violating (1) Penal Code sections 459-460, subdivision (b) second degree burglary, (2) Penal Code section 470, subdivision (b), acts constituting forgery, and (3) Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, to wit: methamphetamine, felonies. When he entered his plea, Petitioner admitted that on August 7, 2003, he "willfully and unlawfully entered Hallmark gifts with a forged driver's license with the intent to commit larceny" and that he "willfully and unlawfully possessed an usable amount of methamphetamine, a controlled substance."

As a consequence of the convictions, the Court placed Petitioner on formal probation for three years on terms and conditions; among other things, the Court ordered Petitioner to: serve 120 days in jail for each count (with credit for time served); pay fines and fees of \$270; use no unauthorized drugs, narcotics or controlled substances; and submit to drug or narcotic testing as directed by the Probation Office.

On February 3, 2006, Petitioner admitted that he violated probation; in addition, Petitioner pled guilty to the additional charge of Health and Safety Code section 11377, subdivision (a), possession of a controlled substance. The Court sentenced Petitioner to serve 16 months for each count as well as the new violation; and the sentences were to run concurrently. Petitioner was given credit for time served.

The case is closed.

- On April 26, 2004, in the Superior Court of California, County of Orange, West Justice Center, in the case entitled *The People of the State of California v. Joshua Erle King, aka Josh Earl King, Joshua Erle King Sr., Josua E. King*, Case No. 04WF0959, on his plea of guilty, Petitioner admitted that, on April 4, 2004, he violated: (1) Health and Safety Code

section 11377, subdivision (a), possession of a controlled substance, to wit: methamphetamine, and (2) Health and Safety Code section 11364, possession of controlled substance paraphernalia. Further, he admitted that, at the time of the foregoing offense, he had been released from custody on bail and on his own recognizance on a felony, in Case No. 04WF0353. As a consequence of his conviction, the Court sentenced Petitioner to serve 90 days in Orange County Jail and to pay fines and fees in the amount of \$270.00.

On January 27, 2005, Petitioner admitted that he violated probation in Case No. 04WF0959. As a result, the Court ordered probation revoked and remanded him to the custody of the Sheriff.

The case is closed.

- On May 7, 2009, in the Superior Court of California, County of Orange, Harbor Justice Center, in the case entitled *The People of the State of California v. Joshua Erle King Sr., aka Josh Earl King, Joshua E. King, Joshua Erle King*, Case No. 08SF0937, on his plea of guilty, Petitioner admitted that, on November 24, 2008, he violated: (1) Health and Safety Code section 11377, subdivision (a), unlawful possession of a controlled substance, to wit: methamphetamine; (2) Vehicle Code section 4462.5, presentation of false registration or identification documents to avoid registration requirements; (3) Health and Safety Code section 11550, subdivision (a), under the influence of a controlled substance; (4) Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol/drugs; (5) Vehicle Code section 14601.1, subdivision (a), driving on a suspended license; and (6) Penal Code section 148, subdivision (a)(1), resist and obstruct an officer who was attempting to discharge the duty of his office and employment.

As a consequence of the foregoing, the Court suspended imposition of sentence and placed Petitioner on probation for three years on terms and conditions; among other things, the Court ordered Petitioner to: (1) serve 180 days in County Jail (with credit for time served); (2) pay fines and fees; (3) attend and complete a three month First Offender Alcohol Program; (4) attend and complete Mothers Against Drunk Driving (MADD) Victim's Impact Panel; and (5) attend and complete a minimum six-month probation approved drug treatment program.

This case is closed.

- On April 6, 2011, on his plea of guilty, Petitioner was convicted of violating Penal Code section 459-460, subdivision (b), second-degree

burglary. On January 23, 2012, Petitioner was sentenced to 16 months in jail and ordered to pay restitution.

9. Petitioner acknowledged his abuse of controlled substances, his criminal activity and explained the facts and circumstances underlying the convictions.

- He completed the PC 1000 program and presumably his 1998 conviction was dismissed.
- While he felt that the PC 1000 program was successful, he reverted back to his criminal behavior and "hanging out" with old friends. In 2003, he was a graphic designer and got involved with people "on the wrong side of the fence"; he began making driver's licenses and moved on to making counterfeit money and "got caught doing it." As a consequence, he sustained the first conviction in April 2004.
- Regarding the second conviction in 2004, he did not recall what happened because he was addicted to methamphetamine.
- Regarding the 2009 conviction, the police pulled him over for expired automobile tags; Petitioner knew that there were drugs in the vehicle; the law enforcement officers ordered him to get out of the vehicle and asked if they could search the automobile; they did not search the vehicle; Petitioner ran; and the law enforcement officer caught and tackled him. Petitioner had manufactured false registration and other documents.
- Regarding his final conviction in 2011, Petitioner was in a store attempting to purchase items with counterfeit money.

10. Petitioner provided evidence of rehabilitation.

- He has suffered no convictions for three years. He was released from jail in 2012, has not returned, and is not on criminal probation.
- In order to avoid further unlawful conduct, he no longer associates with his friends who are involved in criminal/drug related activity; his girlfriend is sober and supportive of Petitioner; he has a few friends from work; he goes to work and goes home.
- He recognizes that he is an alcohol and drug abuser and has taken steps to remain sober. During the last time he was in custody, he voluntarily completed a substance abuse program and learned about the 12-step program. He has learned to rely on God more; he is accountable to God. He has remained sober since his release from custody; when he feels the

necessity to do so, he attends Alcoholics Anonymous meetings, maybe once a month or when he feels weak.

- He has a relationship with God that carries him through. He is accountable to God and has learned to rely on Him more. He attends church on a fairly regular basis; in six months, he has attended four times.
- He recognizes that he has made some serious mistakes in his life and accepts responsibility for his misconduct. He explains that it is a high priority for him to avoid criminal activity, to remain sober, and to demonstrate that he is honest and trustworthy such that the Board can trust him to have a license and that issuing him a license would not be contrary to the public interest. As he did not engage in fraudulent or dishonest conduct while working as a licensee, he can be trusted to go into consumer homes.

He has changed his way of thinking and has acquired coping skills; he thinks before he acts; he has been honest; he has learned lessons; there are no short cuts; one needs to do the right things in life.

He has learned lessons; there are no short cuts; one needs to do the right things in life.

- Solo Termite and Pest Control has employed Petitioner for about a year. He is part of a work crew; he does wood repair; he pulls and replaces termite-infected wood.
- He began taking but has not completed continuing education classes.
- He is willing to accept a probationary license and to comply with any terms and conditions of probation imposed on any license issued to him.

11. Steve Skolos, the sole owner of Solo Termite and Pest Control, Petitioner's employer, testified as a witness on Petitioner's behalf. He has been in the pest control business for more than 20 years. Since 1993, Skolos has held licenses issued by the Board.

Skolos hired Petitioner about a year ago. A friend of Skolos from church referred Petitioner to Skolos. Skolos had some familiarity with Petitioner's background but was not aware of his arrest record until the hearing. In his opinion, everyone has trouble from time to time. Skolos wants to give everyone an opportunity.

Skolos believes that Petitioner is rehabilitated because he has observed Petitioner's performance, his character and his ability to work with others. Petitioner is different from the person described during the hearing.

Petitioner is one of his top employees; he is on time, reliable, does not take sick days, and is pleasant and easy to get along with. His work is excellent; he works hard, works well with others and is teachable; there are no complaints against him. Skolos has hired many people over time. If one is a problem employee, he sees the problems immediately. He has not seen any issue with Petitioner.

Skolos wants to promote Petitioner but cannot do so if Petitioner does not have a license. If he has a license, Skolos can add technician to his responsibilities; if termites are detected, Petitioner can apply termiticide rather than bringing in another crew.

These are the reasons that Skolos attended the hearing to testify on Petitioner's behalf. If no license is issued to Petitioner, Skolos will continue to employ him.

In order to protect the public, in addition to insurance, Skolos has policies and procedures. Among other things, he keeps a close watch on his employees; he has closed circuit and GPS vehicles; he tries to keep honest employees honest. When he has an indication, he orders a random drug test of employees. The test is for a panel of drugs and is performed by his payroll company. He has had no problem with Petitioner's honesty; he has had no indication from Petitioner's behavior or otherwise that Petitioner has been on drugs.

12. Petitioner has not repaid the Board's cost of investigation of the charges that led to the revocation of his license in the amount of \$1,416.33.

## LEGAL CONCLUSIONS

1. In petitioning for reinstatement under Government Code section 11522, Petitioner has the burden of demonstrating that he has the necessary and current qualifications and skills to safely engage in the practice of structural pest control within the scope of current law and accepted standards of practice. The Petition for Reinstatement of Petitioner's license, the supporting documents and testimonial and documentary evidence, and the Board's criteria for rehabilitation have been considered.

2. Petitioner is to be commended for taking the steps to change his life and his efforts at sobriety. He testified in a straightforward and honest manner. Skolos' testimony was powerful. Clearly Skolos is aware of Petitioner's potential pitfalls, and he has protocols in place to address them. Nevertheless, Skolos has faith in Petitioner, supports him and will continue to employ him, irrespective of the Board's decision.

It has been more than 15 years since Petitioner engaged in the negligent acts that resulted in revocation of his license. He has an extensive criminal history for fraudulent acts and substance abuse. He committed crimes while licensed and subsequent to revocation of his license. Petitioner is no longer on criminal probation. He accepted responsibility for his negligent acts and described steps he has taken to avoid such acts in the future. He has made the decision to become a productive member of society and described effective steps to do



so, including attending church, maintaining his sobriety, not engaging in criminal conduct, surrounding himself with people who are sober and not engaging in criminal acts, maintaining gainful employment, and pursuing and maintaining a relationship with God. He acknowledged that he is a substance abuser and has taken steps to address that problem, such as attending AA and relying on God as well as the foregoing.

3. Petitioner's efforts at rehabilitation are impressive. Nevertheless, the Board has an obligation to protect the public. Insufficient time has passed and insufficient evidence was offered to establish that he is rehabilitated for the following reasons.

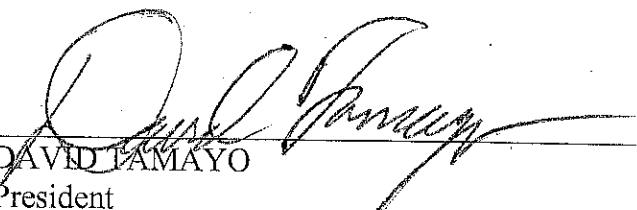
- Petitioner has an extensive criminal history that spans more than 10 years and involved serious crimes related to substance abuse and fraudulent conduct. His most recent conviction occurred three years ago. As a consequence, there are concerns about Petitioner going into the homes of consumers.
- No documented evidence of sobriety was presented. Though he is aware of the 12-step program, he has not engaged in structured treatment (through AA, groups, his church or therapist) for his drug and alcohol abuse for a prolonged period of time. No documented evidence of outside, objective random drug tests were submitted.
- Petitioner has not paid or made efforts to pay the costs of investigation of the underlying charges that resulted in revocation of his license.

Considering the facts and the foregoing, it would be contrary to the public interest to reinstate Petitioner's license at this time.

#### ORDER

The Petitioner for Reinstatement of Field Representative License of Joshua E. King is denied.

DATED: August 7, 2014

  
DAVID TAMAYO  
President  
Structural Pest Control Board